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South Carolina House of Representatives

Legislative Update & Research Reports

Robert J. Sheheen, Speaker of the House

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Legislative Update

Correction

In the April 14 issue of *Legislative Update* there was an error in listing a recently-introduced bill.

H.2855 would require payment of face value of a property insurance policy to a renter who suffers the total loss of contents in his or her principal dwelling. *Legislative Update* listed the author as Representative John Bradley of Charleston. The author of the measure is Representative Derwood "Woody" Aydlette, of Charleston; Representative Bradley is a co-sponsor of the measure.

Legislative Update regrets the error.

The Week in the House

Background

The House moved through a considerable amount of legislative business during the week of April 21 through 24, dealing with a variety of issues from interpreters for the deaf in court cases to permitting consideration of a bond measure for prisons.

Honors and accolades

There was also time for recognition of notable achievements in South Carolina. A concurrent resolution by Rep. Harvin was adopted, recognizing the 50th anniversary of the state Department of Social Services and commending the Chairman of the DSS Board, R.J. Aycock, III, and the State Commissioner, James Solomon, Jr.

The House agreed with the Senate to adopt another concurrent resolution which designates May as "South Carolina Tourism Month," with special attention to the week of May 17-23, which the United States Congress has set aside as National Tourism Week.

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The resolution pointed out the great importance of tourism to our state: over three billion dollars in revenues and direct employment for more than 85,000 residents.

Official recognition was also extended to a group perhaps seldom noted: city, county and state codes-enforcement officials. These folks were commemorated in a concurrent resolution sponsored by Senator Leatherman that recognizes April 5-11 as "National Building Safety Week."

And finally, the House had the opportunity to honor one of its own members. A resolution sponsored by Rep. Harvin and many others was adopted by the both chambers to commend and congratulate Rep. Tom Rhoad, for the recognition he is receiving from Denmark Technical College. The College is naming "Rhoad Hall" in his honor on Monday, April 27. In recognition of this the resolution further designates that date as "Tom Rhoad Day" in Bamberg County.

Interpreters for the deaf

H.2159 (Rep. Hearn) is a measure that would provide for interpreters for deaf persons who are involved in court matters. During the week the measure was the subject of considerable discussion between the House and Senate. Tuesday the Senate sent word that it had adopted the report of the conference committee on the bill. Later that day, however, another message arrived from the Senate, saying that it had reconsidered the vote adopting the committee's report.

On Wednesday another committee on free conference issued its report on the bill; this report was explained to the House by Rep. Wilkins and adopted. A message was sent to the Senate. Thursday came word that the Senate had also adopted the report, which finally allowed the measure to be ordered enrolled for ratification.

Fiscal matters

The House tackled several bills dealing with government finance. On Tuesday it sent to the Senate H.2264 (Rep. Sheheen) which requires local governments receiving state aid to submit certain annual financial reports to the Comptroller General. Also approved during the week was H.2816 (Rep. McLellan) which would permit authorization of state capital improvement bonds this year, as long as the bonds are used to comply with the terms of the Nelson lawsuit settlement. The measure was needed because of the state law that bonds can be authorized only in even-numbered years.

Special orders—to go

A quartet of bills were set for special order on Wednesday by the House, and rather briskly dispatched.

H.2625 (Rep. Wilkins) amends the Code so that a person convicted of an offense which carries the penalty of loss or suspension of a driver's license must surrender it to the clerk of court immediately. In return the offender can receive a temporary, twenty-four hour driver's certificate.

H.2463 (Rep. Evatt) concerns the modification of child support payments; H.2794 (Rep. T. Rogers) permits state employees to have dues to the State Employee's Association deducted directly from their paychecks. This measure had been in the general appropriation bill, but was ruled non-germane.

And finally, H.2555 (Education and Public Works Committee) adds a section to the state Code prohibiting public elementary and secondary schools from distributing contraceptive devices or medications.

Shrimp Landings in South Carolina

Two of the bills which have gained considerable attention this session of the General Assembly deal with the same subject: shrimp baiting. H.2742 and S.437 would both set certain restrictions on the use of bait to attract shrimp, including the length of the allowed season and the amount of shrimp that could be landed.

The issue of shrimp baiting became prominent during the fall of 1986 when state wildlife conservation officers arrested out-of-state residents engaged in illegally catching, transporting and selling shrimp from South Carolina waters.

The value of the shrimp catch to South Carolina can be seen from the following figures from the latest *Statistical Abstract*. These are the reported commercial landings and dockside values of the shrimp catch for 1985. According to the winter, 1987 issue of *Commercial Fisheries*, published by the Marine Resources Division of the Wildlife Department, the 1986 catch was roughly the same, just a little less than 3.5 million pounds.

Shrimp Landings, 1985 (Heads on)

<u>County</u>	<u>Pounds</u>	<u>Value</u>
Beaufort	607,358	\$1,678,094
Charleston	1,790,995	3,298,380
Colleton	294,229	602,449
Georgetown	512,915	856,047
Horry	1,932	2,849
TOTAL	3,207,429	6,437,819

Legislation Introduced

Children and Families

Child support enforcement programs: reimbursement (H.2963, Rep. Evatt). Local entities—county governments, circuit solicitors, the circuit courts—are currently eligible for reimbursement from the state under certain situations for expenses they incur in setting up and running programs to collect child support. One of the present conditions is that the children must be in families on Aid to Families for Dependent Children (AFDC) or otherwise economically deprived. This bill would strike that requirement, allowing the local programs to be eligible for reimbursement for part of their expenses for all children who seek assistance in getting reimbursement.

DSS and child custody cases (H.2999, H.3000, Rep. Kohn). These two bills deal with the Department of Social Services taking a child into its custody without the consent of the parent. H.2999 provides that if the parent goes to court to regain custody of the child and wins, then DSS would be responsible for paying court costs and attorney fees. H.3000 provides that before DSS could take a child into custody without the parent's consent, it must first get a family court order.

Culture

Folk Heritage Award (H.2973, Rep. T. Rogers). This bill would create the South Carolina Folk Heritage Award to honor up to four recipients each year for their achievements and accomplishments in folk arts in South Carolina. The criteria for the award would be the authentic tradition of the craft—real folk heritage, in other words—and the significance of the folk artist or group in "stimulating the craft to higher levels of artistic achievement." Recipients must live and practice in South Carolina.

A seven member advisory committee would be appointed, with members serving two-year terms. Committee members would come from such groups as the Arts Commission, the Joint Legislative Committee on Cultural affairs, and the private sector. The Afro-American community and the American Indian community would be assured representation on the committee.

As for the awards themselves: no state funds would be used. Private funds would have to be raised to cover "any expenses incurred or associated with presenting the award."

Description of state flag clarified (H.3042, Rep. Harvin). This bill was written to answer the need "to clarify the description of the state flag of South Carolina and to standardize the design of the palmetto tree and the crescent displayed upon it." It gives precise figures and measurements for the flag, the tree and the crescent (or "increscent") and provides illustrations.

An "increscent" is a crescent on the increase, representing the waxing moon. In terms of heraldry it is a figure having its horns pointed to the dexter side.

Economic Development

Coordinating Council made permanent (S.627, Rep. Waddell). This bill would make the South Carolina Coordinating Council for Economic Development a permanent body, rather than one doomed to expire on July 1, 1989.

The Council was created in 1986 to provide for improved planning and coordination of the state's economic development efforts. It consists of a variety of members, including the Commissioner of the Department of Agriculture, the Chairman of the Employment Security Commission, head of the State Development Board, Chairman of PRT, Chairman of State TEC system, Chairman of the State Ports Authority, and so forth.

The equivalent House bill is H.3020, Labor, Commerce and Industry Committee.

Education

Fringe benefits for school districts (H.2976, Rep. Lockemy). This bill would provide state funds to cover the costs of fringe benefits for school districts in the state. Money would be available to cover benefits for the minimum number of personnel needed to meet the state Defined Minimum Program (and at the state minimum salary levels).

One minute of silent contemplation required at beginning of school day (S.660, Senator Hinson).

Environment

Hunting wild turkey: bait and baiting (H.2968, Rep. Foxworth). This bill more precisely defines "bait" and "baiting" when hunting wild turkey—the scattering of salt, corn or other grains or feed as a "lure, attraction, or enticement" to the birds. It further provides that hunters must have tags from the Wildlife Department and tag their killed birds before they transport them from the site.

There would be a limit on the number of wild turkey that could be killed: two per day, no more than five per season.

Illegal trade in wildlife (H.2969, Rep. Foxworth). This bill would set penalties for illegal sale, trade or transfer of wildlife in South Carolina.

For the first offense, if the money or goods exchanged for the wildlife is less than \$200, then the penalty would be a fine up to \$200 or thirty days in jail. If the value of the animals is over \$200, then a first offense would bring a fine between \$500 and \$5,000, a sentence between thirty days to one year, or both. In addition, the guilty party would lose the right to hunt and fish in this state for one year.

For a second offense committed within three years of the first, the fine would be \$1,000 to \$5,000, or a jail term of 30 days to one year could be imposed. The right to hunt and fish would be lost for three years.

Third and subsequent offenses, within three years, would bring a fine of \$5,000 (no part of it suspended) and/or one year in prison. Hunting and fishing privileges would be forfeited for three years.

Game law revision (H.2974, Rep. Pearce). A substantial revision of the state's law relating to game hunting.

More legislative members for state boards and commissions (H.3011, Rep. Harvin). This bill would add two new members to all boards and commissions in state government that deal with agriculture, natural resources and other environmental matters. One member would be appointed by the Chairman of the House Agriculture and Natural Resources Committee, the other by the appropriate Senate Committee Chairman.

Shrimp baiting (S.437, Senate Fish, Game and Forestry Committee). The Senate version of H.2742, this measure would set the following standards for taking shrimp over bait.

First, there would be a thirty day season (the House bill set one of 45 days). Second, there would be a catch limit of 48 quarts of whole shrimp or 29 quarts of headed shrimp per day. For persons

taking shrimp from a boat or with a seine, this limit would be per boat or per seine, no matter how many people were involved. Otherwise, the limit would be per person per day. Third, the fine for baiting shrimp out of season would be \$200, or thirty days, and confiscation of boat, motor, trailer, and so forth. Fourth, the fine for violating the catch limits would be a fine between \$100 and \$200 or thirty days the first time; a fine of \$200 or thirty days and confiscation of boat, motor etc. for second offenses.

The bill makes no mention of the license, tags and poles required by the House version.

Hunter education (S.476, Sen. Waddell). This bill would set up a mandatory hunter education program through the Wildlife and Marine Resources Department. All persons born after December 31, 1972 would have to complete the program successfully before they could be issued a hunting license in this state. Certificates of completion from comparable programs in other states or Canada would be accepted as well. The Department would work out the details of the program, and could charge fees sufficient to offset the costs.

Penalty for violating this provision would be a fine between \$50 to \$200, or thirty days.

Fiscal

Tax increment financing (H.2960, Rep. Toal). An outline bill that proposes several changes in the procedures of tax increment financing. Included (according to the title) are changes in the base year, division of obligations, eligibility of municipalities for certain benefits, and other items.

Accommodations Tax Regulatory Board (H.2982, Rep. Keyserling). A measure that would create the Accommodations Tax Regulatory Board, whose purpose would be to regulate spending of the state Accommodations Tax. Specifically the Board would look into any allegations that counties or municipalities were not spending their portion of the accommodations tax on proper activities, as defined in the statutes that created the tax.

There would be a member from each of the state's regional tourism districted. These members would be elected by the governing body of the regional tourism commission, except for the Grand Strand and Charleston members, who would be appointed by the PRT Commissions for those areas. Members would serve two-year terms and would hold meetings at least once a quarter.

Rural Community Infrastructure Act (H.2985, Rep. R. Brown). This bill would expand the powers of the State Housing Authority by authorizing it to issue bonds in order to raise money for infrastructure projects in rural areas of the state.

Local governments, including municipalities, special purpose districts and nonprofit organizations acting for such subdivisions, would be allowed to borrow money from the Housing Authority for infrastructure projects. These projects would include water and sewer systems, roads and bridges.

The areas would have to be "rural" as defined by the act: outside the boundaries of incorporated municipalities with a population of 25,000.

Government Operations

Economic interest statements: what must be reported (H.2970, Rep. T. Rogers). Economic interest statements are required by certain public persons by 8-13-820 of the South Carolina Code. This bill would "revamp the contents" of the economic interest statement. Income, honoraria or gifts over \$100 per year would have to be reported. In addition, disclosure would have to be made of property or interest in a trade or business over \$1,000 worth, liabilities, mortgages, loans, and sales over \$1,000, property—other than that used as personal residence—stocks, bonds and other securities, and all positions held in any business.

This information would be reported in certain financial categories—for example, "not more than \$5,000;" "at least \$10,000 but not more than \$25,000," and so forth.

Economic interest statements: who must file (H.2971, Rep. T. Rogers). This bill would add certain public officials to the list of those who must file an economic interest statement (see 8-13-810 of the Code). Added would be all persons elected or appointed to boards, commissions or councils with statewide jurisdiction. Not added would be persons on advisory bodies.

Licensing powers of ABC given to counties (H.2988, Rep. Davenport). The power of the Alcoholic Beverage Commission to grant licenses would be taken away from them and given to the governing body of each county.

Recall of elected officials (H.3002, Rep. Davenport). This bill proposes an amendment to the state constitution to allow recall of elected public officials. The method would be determined later by the General Assembly.

Health

Medicaid prescriptions (H.2965, Rep. Lewis). This measure would provide a 75¢ per prescription incentive to pharmacists who fill medicaid prescriptions with a less expensive—but equally effective—drug. The substitution would have to be approved by the prescribing physicians.

To be eligible, the substitution would have to result in a net savings of at least three dollars. In addition, the original prescription could not have a generic drug prescribed, nor could the physician have signed on the line indicating that substitutions are allowed.

The Health and Human Services Finance Commission would have to make a report on the fiscal impact of this bill to the General Assembly by October 31 of 1988.

Patient Compensation Fund coverage (H.2980, Rep. J. Bradley). This bill would extend the coverage of the South Carolina Patient Compensation Fund to pay for appropriate tort liabilities other than medical malpractice. However, liability would not extend to claims resulting from work-related injuries or the operation of motor vehicles.

Patients' rights (H.2996, Rep. P. Harris). This bill sets forth the rights which mental health patients and mental retardation clients retain while under treatment. Basically they keep the rights which are available to all citizens. In particular patients or clients who are competent have the right to refuse certain treatments (such as surgery or electro-convulsive therapy).

Patients are also entitled to have private communications (such as sealed letters or confidential telephone conversations), meetings with family or clergy, wear their own clothes and have access to their personal possessions (unless dangerous), and follow religious practices that do not lead to physical harm, harrassment of others, or damage to property.

Mental health patients and contraband (H.2998, Rep. P. Harris). This bill would amend the section of the Code which deals with patients or prisoners under the jurisdiction of the Department of Mental Health receiving contraband. Specifically it states that persons who provide, or allow, patients or prisoners of DMH to get alcoholic beverages, firearms, dangerous weapons or drugs is guilty of a misdemeanor. Persons would be held accountable if they deliberately furnished the contraband to the patients, or negligently allowed them access to the forbidden items. The punishment could range greatly, depending upon the offense. The fine could be anywhere from \$100 to \$10,000, and the term of imprisonment from thirty days to ten years.

Patient's right to records (H.3033, Rep. J. Bradley). This bill would establish that a patient has a right to a copy of his or her medical records. It further defines what would be included, and provides punishment for doctors or others who would refuse to give up the records, or give them up only under certain conditions.

Where'd that apple come from, Eve? (H.3063, Rep. Harvin). This legislation would require that all fruits and vegetables sold in South Carolina indicate their point of origin. The Department of Agriculture would promulgate the regulations necessary to put this into effect.

Highways and Byways

Special license plates (H.2979, Rep. Petty). The Highway Department currently provides special license plates for political subdivisions in the state; this bill would have those plates available for rescue squads as well.

Highway funds: set asides (H.3001, Rep. Taylor). This measure would require that the Highway Department spend 10 percent of its funds used for construction with small businesses owned and controlled by "socially and economically disadvantaged individuals as defined in Section 11-35-5010." Three percent of the total funds would have to be spent with firms owned and operated by females (not disadvantaged).

The Department would certify the eligible funds in the state and provide them thirty days notice before contracts are let. In the case no suitable business could be found, that fact would have to be recorded in Department Records.

Section 11-35-5010 defines "socially disadvantaged persons" as those subject to racial or ethnic prejudice. It includes "Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians)...."

"Economically disadvantaged individuals" are those "whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged."

Closing roads and streets (H.3009, Rep. Toal). When a court orders a road or street closed and abandoned, then the person who takes over the property would also be required to pay a fee (set by the court) to the county treasurer.

Driver's license: how many fingers? (H.3015, Rep. L. Phillips). This bill would revise the minimum standards required for eyesight in order to get a driver's license. For a person with vision in only one eye the reading would have to be 20/40 or better. For a person with vision in both eyes the minimum acceptable standard would be 20/70 in one eye and 20/200 in the other, with a note from a specialist saying "no further improvement possible."

Driver's license: how many years? (H.3016, Rep. L. Phillips). The term of a driver's license would be for four years, except for members of the armed forces and their dependents, who would have two additional years to renew their licenses.

License plates for the South Carolina State Guard (H.3037, Rep. Harvin). The National Guard get special license plates. This bill would give them to the State Guard as well.

Illegal parking in handicapped spaces (S.262, Senator J.V. Smith). This bill would set a minimum fine of \$25 for those who parked illegally in spaces reserved for the handicapped. The comparable House bill is H.2042 (Rep. Rudnick).

Insurance

Automobile insurance (H.2953, Rep. J. Rogers). This bill sets up the classification of "inexperienced driver" for persons with less than ten years' driving experience, and allows them a credit of at least ten percent for successful completion of a driver's education course. Insurance companies would not be allowed to increase the rates of inexperienced drivers by more than one-third a year for the three years after the plan goes into effect.

This bill would also set up a two-level system of automobile insurance, one which charges premiums on a "base rate," the second an "objective standards rate" which is 25 percent higher. Drivers would be charged the base rate unless there was something in their record which put them into the "objective standards rate." That something would be accidents, serious traffic violations, or other indications that they could be considered "unsafe" drivers. Some examples:

- *Convictions for driving violations on three or more separate occasions during the past three years

- *Two or more "chargeable" accidents within the past two years (these are accidents which result in bodily injury, death, or damage to property over \$400)

- *Suspension of driver's license or vehicle registration during the past three years

- *Convictions for DUI, within the last three years

- *Use of their vehicle for transportation of flammables or explosives.

Rates would have to be filed with the Insurance Commissioner by October 1, 1987. The rate would be calculated "solely upon the experience generated by the risk for each class and territory retained by the insurer...."

Finally, companies could refuse to write insurance for persons who have the conditions which would put them into the "objectives standards" rate—that is, the serious traffic violations and so forth—or who have collected benefits from an auto insurance policy for two or more fire or theft losses during the past three years.

The comparable Senate legislation is S.593, Senate Banking and Insurance Committee.

Cancelled policies: refunds (H.2967, Rep. Ogburn). This bill would provide that if an insurance policy is cancelled before its term expires, then the company must refund all premiums collected over one-half of the premium earned. In addition, the cancellation does not relieve the insurance company from the obligation of paying any valid claims or losses that happened while the policy was in force.

Hospital bills and third party payments (H.2993, Rep. Davenport). This bill would require that a hospital or other health facility send a copy of a bill to the patient at the same time it sends the bill for payment to a third party (such as an insurance company). The bill would have to be sent out within fifteen days of discharge, and the patient would have an additional fifteen days to consult with his or her insurer. No payment could be required until that thirty day period was over.

Auto insurance: inexperienced driver risk plan (H.3030, Rep. J. Bradley). This bill would set up the inexperienced driver risk classification plan for all drivers with less than ten years of driving experience. Such drivers could gain a credit of at least ten percent off their rate or premium fees for successful completion of a driver education course approved by either the Education Department or the Highway Department.

For three years after this risk plan went into effect, these drivers could not receive more than a one-third increase each year in their premiums because of their classification.

Mortgages and property insurance (H.3032, Rep. J. Bradley). Banks, savings and loan associations and other institutions making mortgage loans could not require property insurance greater than the replacement cost of the building and "appurtenances" on the mortgaged premises as a condition of granting the mortgage.

Insurance claims: pay up (H.3034, Rep. J. Bradley). Insurance companies would have to pay claims within twenty-one working days after they were submitted should this be passed into law. Payment beyond that date would accrue interest at 1.5 percent per month, starting on the twenty second day after the claim was received.

In any court case over the delay in payment, the insurance company would have to prove its failure to pay in a timely fashion was in good faith. Failing to establish that fact, the insurance company could be charged with court costs and reasonable attorney fees, and assessed a penalty of not less than one half the value of the claim.

Labor, Commerce and Industry

Modular buildings (H.2978, Rep. T.M. Burriss). This legislation would change the definition of "modular building" so that it means any building constructed off-site and transported to its "point of use." Exempted from that definition would be mobile and manufactured homes.

Credit card interest rates (H.3035, Rep. J. Bradley). The maximum interest rates on credit card loans would be twelve percent per annum (simple interest) under provisions of this bill.

Law and Justice

Magistrate court: receiving stolen goods (H.2957, Rep. Hodges). The crime of receiving stolen property or goods worth up to \$200 could be heard in magistrate's court if this measure passes. The punishment would be thirty days in jail.

DUI penalties (H.2987, Rep. Davenport). Persons convicted of driving under the influence or felony driving under the influence would have to serve the minimum sentence: there could be no suspension and no probation available for them.

Drug offenders: minimum penalties (H.2991, Rep. Davenport). This bill would provide that convicted three-time drug offenders could not have any part of their minimum sentence suspended, nor would they be eligible for probation.

Auto accidents: administrative fee (H.2994, Rep. Moss). A person who was convicted of causing an auto accident while driving under the influence would have to pay an administrative fee of \$500 to the law enforcement agency which investigated the incident.

Legislative Action on AIDS *

Introduction

Few health care issues have been as hotly debated in recent years as the subject of AIDS-acquired immune deficiency syndrome. Reasons for the controversy include the predominant methods of transmission, the characteristics of high risk groups, and the fact that it is a fatal condition with no known cure- these social and public policy issues sometimes overshadow medical and scientific concerns in the public eye. Discussions of public health measures to minimize the spread of AIDS are immediately loaded with social value questions; consider the following implications:

1. Protection of individual rights versus protection of the public welfare.
2. Tolerance of certain sexual practices and recognition of intravenous drug usage.
3. Allocation of resources for prevention and treatment of a disease that has not yet spread significantly in the general population, but which is growing epidemically within high risk groups, chiefly homosexual or bisexual males and intravenous drug users.

Legislative action on AIDS

This type of of public discussion and debate is mirrored in state legislatures across the country. Growing public awareness and concern have prompted legislative efforts to address a number of specific issues related to AIDS: protection of the blood supply, employment and insurance discrimination, and public health measures to reduce transmission of the HTLV-III virus that causes AIDS. This virus is the key, because it is what biologists look for in the all important blood tests. AIDS is what one contracts if HTLV-III somehow enters the blood supply. The ways in which people are coming into contact with this virus fuel the public controversy surrounding the disease.

*This research report was written by Edward Ryan, a legislative intern with the House Research Office. Ryan is a senior at the University of South Carolina.

This report will look at approaches taken by states to deal with this new medical and social question. While this could seemingly result in fifty different state legislatures researching the problem independently, two states are leading the way in attempting to control the many ramifications of the disease--these are California and New York. This by no means implies that the other forty-eight are not doing their part. One of the reasons these two states are singled out has to do with their significant populations of the high risk groups. Nevertheless, enough precedents are being set by these two for their actions to be examined separately later in this report.

For now, let's look at 1985/86, the years legislative action on the disease really began in earnest.

1985/86: The actions of the "Lower Forty-Eight"

There is too much similar legislation to look at states' individual rulings on the issue. Instead, dealing with the largest separate questions surrounding AIDS, one can look at the more innovative legislation taking place across the country.

Confidentiality of AIDS testing

Not only is AIDS a cause of great physical suffering, its victims frequently find themselves the objects of discriminatory practices. This disease is widely identified with what some would call debauchery or immorality, because discrimination against AIDS victims is perceived more widely as another form of homophobia or fear of those who use injected drugs. In fact, some people see the disease as a punishment for those who embrace the pseudo-chic fast lane of drugs and sex.

Since protection of the blood supply is already a constant task of AIDS researchers, some feel that the names of those who test positive for the disease need only remain in private medical records except in cases of medical emergencies. This will help to prevent exploitation of victims. This was one of the main aims of legislation in 1985/86:

* In Florida, no one may be forced to identify anyone who has taken a blood test of any kind. Someone disclosing test results to anyone but the subject may be penalized with a one year jail sentence and/or a fine of \$1000. This of course excludes communication of such information for reasons of public health.

* Ritual pre-marriage blood tests in Pennsylvania now include a check for AIDS. Test results are only revealed to the couple, however. In cases where a betrothed tests positive for HTLV-III, the marriage is not forbidden, but it is certainly not advocated by the health authorities.

* In Washington, in 1985 it became illegal to test a person for AIDS without a list from the subject of those people (if any) to whom results of "positive" could be disclosed.

* A 1986 Hawaiian law assures confidentiality of a person's status regarding HTLV-III, even to the point of "prohibiting such information from being released or made public upon subpoena or any other method of discovery."

* In more than a few states, police officers, paramedics and fire fighters who come into contact with AIDS victims while on duty must be informed of the fact. This is so in Louisiana, Connecticut and Illinois as of 1985. In Florida however, a 1986 law requires AIDS testing of anyone who injures any of these public servants.

* Aids victims risk possible discrimination by employers and insurers if HTLV-III test results become known. A few states are working to prevent this:

In Massachusetts no employer may require an AIDS test as a condition for employment;

In Maine, insurers may not even request a person to reveal whether or not he has had an AIDS test. Maine particularly demonstrates its commitment to the victims, because at the end of its 1986 Act, it says "it is the policy of the state to provide services to meet the needs of persons with AIDS."

Protection of the blood supply

Since AIDS can be transmitted through blood contact, stricter controls of the blood supply are obviously in the public interest. Blood banks and plasma centers are all going to have to modify their rules and procedures. Examples are already being set:

* Beginning in 1985, those who give false medical information on a blood plasma sales application are guilty of a misdemeanor in Iowa.

* In an effort to reduce litigation in the event of a mistake, Nevada and Washington extend "implied warranty immunity" to lawsuits arising from blood transfusions. This means that new blood can no longer be guaranteed "clean" in these two states. In the case of a patient contracting AIDS while undergoing a transfusion, the supplier of the blood would not be liable for damages, since the blood had no "implied warranty." Unless suppliers choose to sell their blood with written warranties, in the future patients could be scared away from transfusions.

*Tennessee took the opposite stand a year later (1986) when it voted that any person contracting AIDS from contaminated blood "will have a cause of action for damages, including all medical expenses, against any facility supplying untested blood."

* Most states have now laid down the law regarding the act of transmitting HTLV-III. In Idaho and Tennessee in particular, laws were passed last year making one who willfully passes AIDS on to someone else guilty of a first degree misdemeanor. The punishment can be anything from six months in jail to a fine of \$1000, or both. Since it is now known that AIDS may lie dormant for nearly a decade, dangerous carriers could be completely unaware of their status, something that could be difficult to prove in a court of law.

* Although California led the way, most states now require that all sperm, blood, and organ samples that daily find their way to hospitals everywhere be tested for the presence of HTLV-III. This is commonly done by coding the samples to protect anonymity. Eventually, this will become as common as having one's temperature taken.

Education of the public

Already in early 1987, the average person's knowledge of AIDS and its characteristics is light years ahead of the misconceptions that marked the earlier part of this decade. Does anyone remember the visions of medical personnel covered from head to toe in protective clothing in the presence of AIDS victims, fearing a new version of the black plague?

* The Illinois Department of Public Health began an AIDS public information campaign for physicians, health facilities, corrections officers and the general public in 1985 with funds from the Legislature.

* Way back in the relative dark ages of 1984, New Jersey began a program encouraging those who suspected exposure to AIDS to seek free state testing services. Counseling, social services and referrals are all part of the program. There is now also a statewide WATS line to answer requests for information and referrals.

* In Maryland there is a new public information program and a health professional training program on AIDS as of last year. Also, the state Department of Health and Mental Hygiene must report on these programs annually to the Governor and the General Assembly.

* Louisiana may have the most innovative idea yet. Beginning with this year's tax returns, residents will have the choice of designating part of their state tax refund to the AIDS Trust

Fund via an income tax checkoff, much like the one for wildlife found on South Carolina's forms. This fund will be used solely "for conducting research and educating the public regarding AIDS and creates a governing board to establish rules and approve grant applications."

New York

Without using value judgements, the fact of the matter is that New York and California are far ahead of other states in their research and support services for AIDS victims. Their examples and their successes can benefit all the states. Let's take a look at what's happened in New York.

In 1983, New York amended its public health law to create an AIDS Institute, with the central responsibility for coordinating state policy on AIDS. Its thrusts are:

1. To develop and promote scientific investigation into the causes, preventions, treatments, and possible cures for AIDS;
2. To encourage medical training on the subject and maintain a clearinghouse of information on the disease;
3. To begin an outreach campaign for the high risk populations to provide counseling programs and information on financial assistance. For this, \$150,000 was the initial appropriation;
4. The sum of \$350,000 was given to the Department of Public Health for contracts with nonprofit community organizations for programs designed to alert and educate the populations at risk and the general public about the danger of AIDS. The monies are intended for uses as diverse as a state hotline and legal aid services.

Since New York laid its groundbreaking legislation four years ago, the more recently enacted laws tend to reflect the newly identified problems of the disease. To remedy the dangers posed by the huge medical costs for example, New York is encouraging outpatient care for AIDS victims in certain cases. Last year, the state voted to raise the Nursing Home Without Walls program's per-patient cost cap from 75% to 100% of the local nursing home rate for certain "special needs" patients such as victims of AIDS and Alzheimer's disease. The local social service officers are authorized to approve patients individually. The goal is to allay fears that only limited funds will be available for those who choose outpatient care.

California

California's attack on the deadly disease has been multi-faceted. Like the approach in New York, significant action there has been growing since 1983. In that year, California established an AIDS Advisory Committee, an eight member group of public officials with knowledge or expertise in public health or AIDS research. Ex officio members include the state Director of Health Services and the Director of Mental Health. With an initial appropriation of \$750,000, grants were awarded for:

1. Education regarding primary prevention for the high risk groups;
2. Public education to reduce the panic surrounding the disease;
3. Workshops for scientists studying AIDS and ARC, the AIDS Related Complex which may be just as deadly, but which does not display all the AIDS symptoms.

The California Department of Health Services may realize a growth of its power, because this is the state agency empowered to accept and disperse all Federal funds for Aids in the state, as well as monies from any public or private agency. Two years ago, this department began a computerized clearinghouse on the subject that goes by the acronym CAIN (Computerized AIDS Information Network.) This contains reviews and summaries from scientific journals and is intended as a reference for medical professionals.

Since the largest single group of AIDS victims is made up of homosexual and bisexual males, the other groups risk being overshadowed. California has taken this "opportunity" to focus on the state's drug problem, since the intravenous drug users are a significant proportion of the victims. Residential detoxification and treatment services for intravenous drug users were begun in 1985 in conjunction with local AIDS-related substance abuser programs. These services include:

1. Residential detoxification programs for this isolated group of victims;
2. Outpatient detoxification programs of health assessment and promotion;
3. Information on AIDS and substance abuse free to anyone who asks, particularly appropriate in lower income neighborhoods.

Most importantly, this state sets an example by not only caring for the victims, but also by avidly encouraging research that could hopefully lead to a cure. Last year, \$4 million was appropriated to begin an AIDS vaccine development fund. A research and advisory committee administers grants to no more than three manufacturers. Royalties from the eventual sale of the vaccine are to be used to repay the fund and go to an AIDS Vaccine Victims Compensation Fund, should any medical problems result.

Conclusion

For the lawmakers considering questions on the disease, the legislation can cover three areas. The first of these might be the protection of the public. This would include bills to control the blood supply and provide for public education especially to prevent future cases. Next, consideration could be given to the victims themselves. How much of these high medical costs is government morally liable to cover? Because of the characteristics of the majority of the victims, psychological damage, though more subtle than the biological, is seriously implied. Lastly, the cost of a cure for the disease should be considered. California already has a fund to encourage vaccine development. Is this applicable elsewhere?

Ultimately, the constituencies will have to be considered. New York and California have the most active legislation because they have the largest populations of the high risk groups. Yet because this disease may lie dormant for so long, some states could be surprised at their number of victims in the future. The safest bet is to act now, at least in the areas of education and protection to lower chances of an AIDS explosion.